

March 19, 1997

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
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Seattle, Washington 98104  
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CORRECTED REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL.

SUBJECT: Department of Development and Environmental Services File No. **L95P0027**  
Proposed Ordinance No. **96-866**

Proposed plat of  
**McCANN MEADOWS**

Location: South of Southeast 200th Street, between 100th Avenue Southeast and 102nd Place  
Southeast

Owner/  
Applicant: McCann Family, LLC  
2801 Club Ct., Unit 310  
Mt. Vernon, WA 98273

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: Approve, subject to conditions  
Division's Final: Approve, subject to conditions (modified)  
Examiner: Approve, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted: December 21, 1995  
Notice of complete application: December 21, 1995

EXAMINER PROCEEDINGS:

Hearing Opened: December 9, 1996  
Hearing Closed: February 7, 1997

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Surface water run-off;
- Ground water seepage;
- Soil contamination

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. GENERAL:

Owner:	McCann Family LLC 2801 Club Court, Unit 310 Mt. Vernon, WA 98273
Developer:	Schneider Homes 6510 Southcenter Blvd. Tukwila, WA 98188
Engineer/ /Surveyor:	Daley Engineering Co. 1215 South Central Ave., Suite 133 Kent, WA 98032
STR:	5-22-5
Location:	South of Southeast 200th Street, between 100th Avenue Southeast and 102nd Place Southeast
Zoning:	R-6P
Acreage:	2.86 acres
Number of Lots:	17
Density:	5.94 Dwelling units per acre
Typical Lot Size:	4,400 to 4,800 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	King County Fire District No. 37
School District:	Kent School District No. 415
Complete	
Application Date:	December 21, 1995

2. Except as modified below, the facts set forth in the King County Land Use Services Division's Preliminary Report to the King County Hearing Examiner for the November 19, 1996 public hearing are found to be correct and are incorporated herein by this reference. Copies of the

said report will be attached to the copies of this report submitted to the County Council.

3. Prior to the opening of the public hearing on December 9, 1996, the Applicant had completed and recorded lot line adjustments which removed proposed Tracts "A" and "B" from the proposed subdivision then under consideration (July 3, 1996, revision). A subsequent proposal, received on January 14, 1997 (Exhibit 24), supersedes the previously proposed plat. The current proposal would establish 17 lots on approximately 2.86 acres, for a density of 5.94 dwelling units per acre.
4. Substantial evidence was introduced at the December 9, 1996, public hearing and the re-opened hearing on February 7, 1997, concerning surface water runoff and groundwater seepage in the area of the proposed subdivision. Properties west and east of the proposed subdivision have experienced flooding of basements and lots. The preponderance of the evidence indicates that the problems experienced by surrounding property owners are the result primarily of groundwater seepage, rather than surface water runoff.

Development of the subject property will reduce the penetration of precipitation into the groundwater, diverting a substantial portion of water currently entering the groundwater system into the surface water detention and conveyance system. A revised Condition No. 9, recommended by the Land Use Services Division, will require the detention pond and bioswale to be constructed with impermeable liners, to reduce the potential subsurface seepage from the detention pond and bioswale onto off-site downslope properties.

In addition, a variance from the surface water runoff manual requirements will allow for a diversion of run-off which currently flows onto properties lying east of the subject properties. This diversion will be made to a stormwater conveyance system which is adequate to convey run-off from the 100-year storm.

5. Several witnesses at the December 9, 1996, public hearing provided evidence that the subject property contains oil contamination, primarily in the northeast corner. The public hearing was continued to enable geotechnical studies to be undertaken concerning this issue. On December 12, 1996, 11 test pits were excavated on the site. No evidence of an oil tank or former tank excavation was observed. Soil samples from the test pits were submitted for chemical analysis; no petroleum contamination was detected above the Model Toxics Control Act cleanup levels for petroleum contaminants.

On December 18, 1996, a geophysical survey of the suspected areas was undertaken. Two anomalies were found using magnetometers. One was a small area of debris buried at a depth of one to three feet; the other was a buried tree stump about 18 inches below the ground surface. No signs of petroleum contamination were found.

#### CONCLUSIONS:

1. The proposed subdivision, as revised and received January 14, 1997, is consistent with the density provisions of the King County Comprehensive Plan and Area Zoning.
2. Surface water runoff from the subject property can be accommodated within the existing

downstream facilities. The additional surface water run-off from this development should reduce groundwater seepage in the vicinity of the subject property following major storm events. Flooding of adjacent and nearby properties which occurs under present conditions will not be exacerbated by the proposed development, if developed in accordance with SWM variance L96VA0071 and the conditions recommended below, and may be diminished as a result of this development.

3. The preponderance of the evidence indicates that no petroleum contaminants exist on the site in excess of levels permitted by the Model Toxics Control Act.
4. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
5. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
6. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
7. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonably necessary as a direct result of the development of this proposed plat.
8. A continuance of the hearing on this application was necessary at the conclusion of evidence presented on December 9, 1996, to allow the Applicant to provide a current proposed subdivision layout, and to obtain evidence which could counter the evidence of soil pollution entered on December 9.

**RECOMMENDATION:**

APPROVE the proposed preliminary plat of McCann Meadows, as revised and received January 14, 1997 (Exhibit No. 24), subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density and minimum density of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be

as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. Note: This may result in the reconfiguration and/or loss of lots.

4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended, subject to any variances granted by the King County Road Engineer.
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04 and the storm drainage requirements and guidelines as established by the Surface Water Management Division. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the Code and requirements and shall apply to all plats.
  - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted by Public Rule effective January 1, 1995. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the Department of Public Works. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
8. The drainage systems shall be consistent with the approved SWM Variance (File No. L96V0071). This variance approves a drainage diversion which should lessen the downstream drainage problems occurring on several residential lots to the east of the subdivision.
9. Due to the potential for subsurface seepage from the detention pond and bioswale to offsite downslope properties, the pond and bioswale shall be constructed with an impermeable liner. The design shall be consistent with Section 4.6 of the SWM Manual.

10. The following road improvements are required for this subdivision to be designed and constructed according to the 1993 King County Road Standards:
  - a. The internal road which serves proposed Lot 17 and Tract A and Lots 17-19 of the plat of Alderwood to the west shall be designed to the urban minor access road standard.
  - b. The internal road which serves the remainder of the lots (extension of SE 202nd) shall be designed to the urban subaccess road standard.
11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
12. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
13. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12148 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
14. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners. This shall be stated on the face of the final plat.
15. A fee-in-lieu of recreation space shall be paid by the applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 21A.14.185.
16. The applicant shall submit revised density calculations to DDES for review and approval, prior to engineering plan approval. The density shall not exceed the base density. This may result in the reconfiguration and/or loss of lots.
17. The following conditions shall apply to implement the P-suffix conditions that apply to this property:
  - a. Clearing and Grading: The applicant shall demonstrate compliance with the P-suffix conditions regarding clearing and grading prior to engineering plan approval (1991 Soos Creek Community Plan, pages 148-149).
  - b. Significant Tree Retention: The applicant shall demonstrate compliance with the P-

suffix conditions regarding significant tree retention prior to engineering plan approval (1991 Soos Creek Community Plan, pages 152-155).

ORDERED this 19th day of March, 1997.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 19th day of March, 1997, to the following parties and interested persons:

Mark Chance  
King Conservation District  
C. Langley, City of Kent  
McCann Family L.L.C.  
Michael McCann  
John & Julie McEnroe  
Craig Preston  
Rhonda & John Salman  
Kent & Janice Shoemaker

Mel Daley/Daley Engineering Co.  
Alan & Linda Knorr  
Gary Lundgren  
Jack McCann  
Tom J. McCann  
Paul Morrow  
Laurie Reinhart  
Schneider Homes  
John L. Scott Land Dept.

Kim Claussen, DDES/LUSD  
Rich Hudson, DDES/LUSD  
Michaelene Manion, DDES/LUSD  
Paulette Norman, KCDOT  
Carol Rogers, DDES/LUSD  
Steve Townsend, DDES/LUSD

Craig Comfort, DDES/LUSD  
Caroline Whalen, King Co. Council  
Aileen McManus, DDES/LUSD  
Lisa Pringle, DDES/LUSD  
Craig Smith, DDES/LUSD  
Greg Borba, DDES/LUSD

**NOTICE OF RIGHT TO APPEAL**  
**AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before April 2, 1997**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before April 9, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient

if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

**MINUTES OF THE DECEMBER 9, 1996 AND FEBRUARY 7, 1997 PUBLIC HEARING ON  
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L95P0027  
- McCANN MEADOWS:**

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Craig Comfort, Mel Daley, Paul Morrow, Craig Preston, Tom McCann, Laurie Reinhart, Kent Shoemaker, Jan Shoemaker, Al Knorr, Mark Chance, Gary Lundgren, and John Salmon.

The following exhibits were offered and entered into the hearing record December 9, 1996:

- |                |   |
|----------------|---|
| Exhibit No. 1  | Department of Development and Environmental Services File No. L95P0027 - McCann Meadows   |
| Exhibit No. 2  | Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the December 9, 1996 public hearing |
| Exhibit No. 3  | Application, dated December 21, 1995  |
| Exhibit No. 4  | Environmental Checklist, dated December 21, 1995  |
| Exhibit No. 5  | Declaration of Non-Significance, dated October 15, 1996   |
| Exhibit No. 6  | Affidavit of Posting, indicating October 15, 1996 as date of posting and October 17, 1996 as date affidavit was received by DDES                    |
| Exhibit No. 7  | Plat map dated July 3, 1996 (revision)  |
| Exhibit No. 8  | Land use map 608E and 609W  |
| Exhibit No. 9  | Assessor maps NW & SW 5-22-5; NE & SE 6-22-5  |
| Exhibit No. 10 | SWM variance approval letter dated July 30, 1996 (File No. L96V0071)  |
| Exhibit No. 11 | Staff Recommended Condition No. 18  |
| Exhibit No. 12 | Letter from Kent Shoemaker dated November 8, 1996   |

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- Exhibit No. 13 Letter from Kent Shoemaker dated November 13, 1996
- Exhibit No. 14 Letter from John Salman dated November 15, 1996
- Exhibit No. 15 Boundary line adjustment, File No. L96L0073
- Exhibit No. 16 Level I Drainage Analysis by T.C.A., received December 21, 1995
- Exhibit No. 17 Fourteen (14) photos taken by Craig Preston, showing drainage and flooding problems on his site and vicinity
- Exhibit No. 18 Petition signed by adjacent property owners
- Exhibit No. 19 Neighborhood Drainage Assistance Program, memo from Alan Meyers, dated May 16, 1996
- Exhibit No. 20 Chart submitted by Tom McCann showing density comparisons
- Exhibit No. 21 Oversize board with photos of area
- Exhibit No. 22 Letter from John & Julie McEnroe to Mark Carey, dated November 17, 1996
- Exhibit No. 23 Letter from Alan & Linda Knorr to Examiner, dated December 8, 1996

The following exhibits were offered and entered into the hearing record February 7, 1997:

- Exhibit No. 24 Revised site plan and conceptual drainage plan
- Exhibit No. 25 Golder Associates soil report dated January 13, 1997
- Exhibit No. 26 LUSD Staff revised recommended Condition No. 9

JNOC:daz

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